

# **EXHIBIT 1**

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**From:** Colleen O'Neil <Colleen@mllaborlaw.com>  
**Sent:** Friday, March 7, 2025 10:44 PM  
**To:** Gorman, Daniel E.; Michael Mule; Joseph Labuda; Robert Milman  
**Cc:** Adler, Matt; Mulry, Kevin P.; Kent, Paris L.; Gibbs, J. Evan  
**Subject:** Re: SiteOne Landscape Supply, LLC v. Giordano et al. (23-cv-02084) - Notice of Service of Subpoena

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Great detective work, Dan! Is that how you put the complaint together also?

Looking forward to speaking with you on Monday.

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**From:** Gorman, Daniel E. <Daniel.Gorman@troutman.com>  
**Sent:** Friday, March 7, 2025 10:17:39 PM  
**To:** Colleen O'Neil <Colleen@mllaborlaw.com>; Michael Mule <MichaelMule@mllaborlaw.com>; Joseph Labuda <joe@mllaborlaw.com>; Robert Milman <rob@mmmlaborlaw.com>  
**Cc:** Adler, Matt <Matt.Adler@troutman.com>; Mulry, Kevin P. <kmulry@farrellfritz.com>; Kent, Paris L. <Paris.Kent@troutman.com>; Gibbs, J. Evan <Evan.Gibbs@troutman.com>  
**Subject:** RE: SiteOne Landscape Supply, LLC v. Giordano et al. (23-cv-02084) - Notice of Service of Subpoena

Colleen:

We will revert with a time to meet and confer on Monday.

It is 100% clear that Don retained the vendors, and at a minimum WeRecoverData, as your firm represented to the Court in a letter dated January 28, 2025 that “Don voluntarily commissioned WeRecoverData...” which Don purportedly undertook as a “belt and suspenders” (ECF Doc 188). You further represented to the Court that “At Don’s request, WRD prepared a hard drive... thereafter, were forwarded to this firm...” (Id.) If your firm retained WeRecoverData, why did you “briefly review” them and put them “in the file for later” without ever seeing that WeRecoverData did absolutely nothing to preserve this critical evidence? It also begs the obvious question of how your firm permitted Don to then destroy the cell phone all together.

That being said, and to facilitate our discussion on Monday and have a productive call, please immediately send us all engagement letters, retainers, or correspondence evidencing the engagement, between your firm and NextPoint, WeRecoverData, and MRD Services (who we plan to subpoena on Monday), including for the purpose of understand the services provided to your firm by each. *See e.g., Pegaso Dev. Inc. v. Moriah Educ. Mgmt. LP*, No. 19-CV-7787, 2022 WL 1306571, at \*3 (S.D.N.Y. May 2, 2022).

Thank you,  
Daniel

**Daniel E. Gorman\***

Partner

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\*Licensed to practice law in New York and New Jersey.

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**From:** Colleen O'Neil <Colleen@mllaborlaw.com>**Sent:** Friday, March 7, 2025 9:56 PM**To:** Gorman, Daniel E. <Daniel.Gorman@troutman.com>; Michael Mule <MichaelMule@mllaborlaw.com>; Joseph Labuda <joe@mllaborlaw.com>; Robert Milman <rob@mmmlaborlaw.com>**Cc:** Adler, Matt <Matt.Adler@troutman.com>; Mulry, Kevin P. <kmulry@farrellfritz.com>; Kent, Paris L. <Paris.Kent@troutman.com>; Gibbs, J. Evan <Evan.Gibbs@troutman.com>**Subject:** RE: SiteOne Landscape Supply, LLC v. Giordano et al. (23-cv-02084) - Notice of Service of Subpoena

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Dan –

I'm not sure why you think it is "abundantly clear that these 'vendors' were retained by Don . . . without counsel's involvement." In fact, that is not accurate. Both WeRecoverData and Nextpoint were retained by counsel. Your subpoenas seek privileged communications and work product.

Please confirm that you will withdraw your subpoenas. Otherwise, provide your availability to meet and confer on Monday.

Also, if you do not agree to withdraw your subpoenas, please advise both NextPoint and WeRecoverData to hold off on production until there is a resolution to our objection.

Thank you  
Colleen

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**From:** Gorman, Daniel E. <[Daniel.Gorman@troutman.com](mailto:Daniel.Gorman@troutman.com)>**Sent:** Friday, February 28, 2025 12:39 PM**To:** Michael Mule <[MichaelMule@mllaborlaw.com](mailto:MichaelMule@mllaborlaw.com)>; Joseph Labuda <[joe@mllaborlaw.com](mailto:joe@mllaborlaw.com)>; Robert Milman <[rob@mmmlaborlaw.com](mailto:rob@mmmlaborlaw.com)>; Colleen O'Neil <[Colleen@mmmlaborlaw.com](mailto:Colleen@mmmlaborlaw.com)>**Cc:** Adler, Matt <[Matt.Adler@troutman.com](mailto:Matt.Adler@troutman.com)>; Mulry, Kevin P. <[kmulry@farrellfritz.com](mailto:kmulry@farrellfritz.com)>; Kent, Paris L. <[Paris.Kent@troutman.com](mailto:Paris.Kent@troutman.com)>; Gibbs, J. Evan <[Evan.Gibbs@troutman.com](mailto:Evan.Gibbs@troutman.com)>**Subject:** RE: SiteOne Landscape Supply, LLC v. Giordano et al. (23-cv-02084) - Notice of Service of Subpoena

Hi Mike,

Please detail your objections in writing. After the hearing, it is now abundantly clear that these "vendors" were retained by Don and botched the backup of his cell phone without counsel's involvement. Even worse, this is *after* Don failed to preserve the evidence. The information sought is 100% relevant to the intentional spoliation of critical evidence.

We are happy to have a call once we understand the purported objections, so that we can have a productive call.

Thank you,  
Dan

**Daniel E. Gorman\***  
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**From:** Michael Mule <[MichaelMule@mlaborlaw.com](mailto:MichaelMule@mlaborlaw.com)>  
**Sent:** Friday, February 28, 2025 12:15 PM  
**To:** Gorman, Daniel E. <[Daniel.Gorman@troutman.com](mailto:Daniel.Gorman@troutman.com)>; Joseph Labuda <[joe@mlaborlaw.com](mailto:joe@mlaborlaw.com)>; Robert Milman <[rob@mmmlaborlaw.com](mailto:rob@mmmlaborlaw.com)>; Colleen O'Neil <[Colleen@mmmlaborlaw.com](mailto:Colleen@mmmlaborlaw.com)>  
**Cc:** Adler, Matt <[Matt.Adler@troutman.com](mailto:Matt.Adler@troutman.com)>; Mulry, Kevin P. <[kmulry@farrellfritz.com](mailto:kmulry@farrellfritz.com)>; Kent, Paris L. <[Paris.Kent@troutman.com](mailto:Paris.Kent@troutman.com)>; Gibbs, J. Evan <[Evan.Gibbs@troutman.com](mailto:Evan.Gibbs@troutman.com)>; Michael Mule <[MichaelMule@mlaborlaw.com](mailto:MichaelMule@mlaborlaw.com)>  
**Subject:** RE: SiteOne Landscape Supply, LLC v. Giordano et al. (23-cv-02084) - Notice of Service of Subpoena

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We request SiteOne to withdraw the subpoenas on NextPoint and WeRecoverData to avoid motion practice to quash those subpoenas. Please advise when you are available for a meet and confer on these issues. Thanks.

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**From:** Gorman, Daniel E. <[Daniel.Gorman@troutman.com](mailto:Daniel.Gorman@troutman.com)>  
**Sent:** Tuesday, February 25, 2025 10:27 PM  
**To:** Michael Mule <[MichaelMule@mlaborlaw.com](mailto:MichaelMule@mlaborlaw.com)>; Joseph Labuda <[joe@mlaborlaw.com](mailto:joe@mlaborlaw.com)>; Robert Milman <[rob@mmmlaborlaw.com](mailto:rob@mmmlaborlaw.com)>; Colleen O'Neil <[Colleen@mmmlaborlaw.com](mailto:Colleen@mmmlaborlaw.com)>  
**Cc:** Adler, Matt <[Matt.Adler@troutman.com](mailto:Matt.Adler@troutman.com)>; Mulry, Kevin P. <[kmulry@farrellfritz.com](mailto:kmulry@farrellfritz.com)>; Kent, Paris L.

<[Paris.Kent@troutman.com](mailto:Paris.Kent@troutman.com)>; Gibbs, J. Evan <[Evan.Gibbs@troutman.com](mailto:Evan.Gibbs@troutman.com)>

**Subject:** SiteOne Landscape Supply, LLC v. Giordano et al. (23-cv-02084) - Notice of Service of Subpoena

Mike:

Please see attached notice of service of subpoenas.

Regards,  
Daniel

**Daniel E. Gorman\***

Partner

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